

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 10-0346

COLSTRIP ENERGY LIMITED PARTNERSHIP,
a Montana Limited Partnership,
Plaintiff and Appellant,

-VS-

NORTHWESTERN CORPORATION,
a Delaware Corporation,
Appellee and Defendant.

FILED

AUG 20 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

MOTION FOR SUBSTITUTION OF MEDIATOR

On Appeal from the Montana Sixteenth Judicial District Court,
Rosebud County, Cause No. DV 07-57

COME NOW the parties hereto, by and through Colstrip Energy Limited Partnership's counsel with the consent of opposing counsel, and move the Court for its order substituting Stuart Kellner of Helena, Montana, as the appellate mediator in the place and stead of Thomas Towe . Mr. Towe was selected as the mediator for the appeal by the Court. In support of this motion, counsel represents as follows:

1. The parties conferred and agreed upon Mr. Kellner as the appellate mediator prior to the expiration of the deadline for that purpose under the M. R. App. P.
2. A message was left with Mr. Kellner's office, again prior to the deadline

under the Rules for the designation of a mediator, regarding the parties the desire to engage him as the mediator in this matter. However, due to his absence from the office while conducting other mediations, he did not receive and respond to the request until after the deadline for designation has passed.

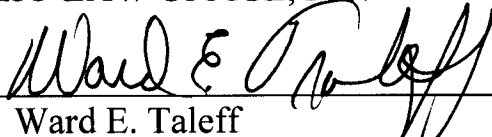
3. Counsel prepared and submitted to the Clerk of this Court a designation and proposed form of Order for the appointment of Mr. Kellner. That filing was sent by mail prior to receipt of the order appointing Mr. Towe.

4. While counsel are aware of the reluctance of the Court to substitute mediators, one of the parties believes a conflict exists with respect to Mr. Towe. Given this belief, and the fact that the parties did intend and attempted to timely designate Mr. Kellner as the appellate mediator, they respectfully request that substitution be allowed. A proposed form of Order is lodged herewith.

Dated this 19th day of August, 2010.

TALEFF LAW OFFICE, P.C.

By

A handwritten signature in black ink, appearing to read "Ward E. Taleff", is written over a horizontal line.

Ward E. Taleff

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Great Falls, MT 59403

Attorneys for Plaintiff and Appellant

CERTIFICATE OF MAILING

I hereby certify under penalty of perjury that the foregoing was duly served upon the respective attorneys for each of the parties entitled to service by depositing a copy in the United States mails at Great Falls, Montana, enclosed in a sealed envelope with first class postage prepaid thereon and addressed as follows:

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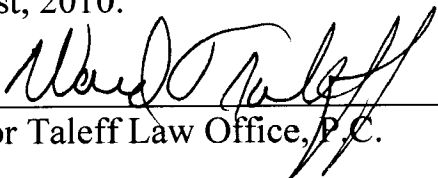
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Dated this 19th day of August, 2010.



For Taleff Law Office, P.C.